

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ADRIAN D. SHAW,

Plaintiff,

v.

DETECTIVE JULIE JOHNSON, et al.,

Defendants.

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No. 4:15CV1639 SNLJ

MEMORANDUM AND ORDER

Plaintiff, a pretrial detainee, seeks leave to proceed in forma pauperis in this civil action under 42 U.S.C. § 1983. Having reviewed plaintiff's financial information, the Court assesses a partial initial filing fee of \$10.00, which is twenty percent of his average monthly deposit. *See* 28 U.S.C. § 1915(b). Additionally, this action is dismissed under 28 U.S.C. § 1915(e).

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a "mere possibility of misconduct." *Id.* at 679. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 678. Determining whether a complaint states a plausible claim for relief [is] a

context-specific task that requires the reviewing court to draw on its judicial experience and common sense. *Id.* at 679.

The Complaint

Plaintiff has been indicted on one count of first-degree felony statutory sodomy. *Missouri v. Shaw*, No. 1522-CR02738-01 (City of St. Louis). The indictment alleges that he “had deviate sexual intercourse with J.B., who was less than fourteen years old, by touching her genitals with his hand.” *Id.* The case is currently set for trial on April 4, 2016. *Id.*

Plaintiff brings this action against Detective Julie Johnson, Angela Brown, Ashley Brown, Percy Brown, and J.B. Plaintiff says that on about June 4, 2015, J.B. slept in bed with him while Ashley Brown and Percy Brown went out. He says that at some point J.B.’s shorts were falling off and he put them back on. And he claims that, the next morning, Angela Brown, who is J.B.’s mother, falsely accused him of “fondling or touching and having sex with” J.B. Plaintiff says he lost his job as a result of the charges. He seeks monetary relief for his pain and suffering.

Discussion

The complaint does not allege any facts showing that Detective Johnson violated plaintiff’s constitutional rights. As a result, his claim against her is frivolous.

Plaintiff’s claims against Angela Brown, Ashley Brown, Percy Brown, and J.B. fail to state a claim under § 1983 because they are not state actors and there are no allegations that they were part of a conspiracy with state actors to violate his rights. *See Johnson v. Outboard Marine Corp.*, 172 F.3d 531, 536 (8th Cir.1999). Moreover, simply filing criminal charges against a person does not violate that person’s constitutional rights. So, the complaint must be dismissed as frivolous.

Accordingly,

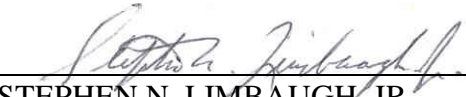
IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 4] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff must pay an initial filing fee of \$10.00 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice.

An Order of Dismissal will be filed separately.

Dated this 27th day of January, 2016.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE